

WILLIAM MABIE,)
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Plaintiff,)
)
vs.) No. 4:13CV02469 ERW
)
CHIEF DEPUTY CLERK, et al.,)
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Defendants.)

This matter is before the Court on plaintiff's motion for leave to proceed in forma pauperis in this action and on remand from the Eighth Circuit Court of Appeals to determine plaintiff's in forma status on appeal. The Court will allow plaintiff to proceed in forma pauperis in both instance and will assess filing fees of \$37.46 in both cases.

Pursuant to 28 U.S.C. § 1915(b)(1), a prisoner bringing a civil action or appeal in forma pauperis is required to pay the full amount of the filing fee. If the prisoner has insufficient funds in his or her prison account to pay the entire fee, the Court must assess and, when funds exist, collect an initial partial filing fee of 20 percent of the greater of (1) the average monthly deposits in the prisoner's account, or (2) the average monthly balance in the prisoner's account for the prior six-month

period. After payment of the initial partial filing fee, the prisoner is required to make monthly payments of 20 percent of the preceding month's income credited to the prisoner's account. 28 U.S.C. § 1915(b)(2). The agency having custody of the prisoner will forward these monthly payments to the Clerk of Court each time the amount in the prisoner's account exceeds \$10, until the filing fee is fully paid. Id.

Plaintiff has submitted an affidavit and a certified copy of his prison account statement for the six-month period immediately preceding the submission of his complaint. A review of plaintiff's account indicates an average monthly deposit of \$0.00, and an average monthly balance of \$187.32. Plaintiff has insufficient funds to pay the entire filing fee. Accordingly, the Court will assess initial partial filing fees of \$37.46 for each case.

Accordingly,

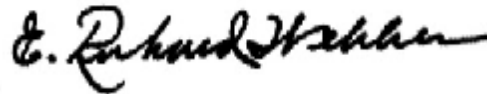
IT IS HEREBY ORDERED that plaintiff's motion to proceed in forma pauperis in this action [ECF No. 2] is **GRANTED**.

IT IS FURTHER ORDERED that the plaintiff shall pay an initial filing fee of \$37.46 for this case within thirty (30) days of the date of this Order. Plaintiff is instructed to make his remittance payable to "Clerk, United States District Court," and to include upon it: (1) his name; (2) his prison registration number; (3) the case number; and (4) that the remittance is for an original proceeding.

IT IS FURTHER ORDERED that plaintiff is granted in forma pauperis status on appeal.

IT IS FURTHER ORDERED that the plaintiff shall pay an initial filing fee of \$37.46 for his appellate case within thirty (30) days of the date of this Order. Plaintiff is instructed to make his remittance payable to “Clerk, United States District Court,” and to include upon it: (1) his name; (2) his prison registration number; (3) the case number; and (4) that the remittance is for an appellate proceeding.

So Ordered this 30th day of January, 2014.

A handwritten signature in black ink, appearing to read "E. Richard Webber", is written above a horizontal line.

E. RICHARD WEBBER
SENIOR UNITED STATES DISTRICT JUDGE